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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,902	08/29/2007	Zeev Shpiro	026285-0009.20US	6301
20350 7590 08/30/2010 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER SAADAT, CAMERON				
ART UNIT		PAPER NUMBER		
3715				
MAIL DATE		DELIVERY MODE		
08/30/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/599,902

**Applicant(s)**

SHPIRO, ZEEV

**Examiner**

CAMERON SAADAT

**Art Unit**

3715

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/8/2010 has been entered. Claims 1-14 are pending. Claims 1 and 6 have been amended.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masterson et al. (US 6,732,076; hereinafter Masterson) in view of Blass et al. (US 6,296,489; hereinafter Blass)**

Regarding claims 1-13, Masterson discloses a computerized method of teaching spoken language skills including the steps of receiving multiple user utterances into a computer system wherein the utterances include spoken responses to application prompts on a computer display; receiving criteria for pronunciation errors; analyzing the user utterances to detect pronunciation errors according to basic sound units and pronunciation error criteria; providing feedback to the user in accordance with the analysis; determining if the user utterance is a grossly different utterance than the desired utterance; a computer processor that produces application prompts for an audio playback interface, receiving multiple user utterances from an audio input device, receives criteria for pronunciation errors, analyzes the user utterances to detect pronunciation errors according to basic sound units and pronunciation error criteria, and provides feedback to the user on a visual display that shows application screens produced by the computer processor in accordance with the analysis. See abstract and Col. 1, line 61 – Col. 2, line 65.

Masterson does not explicitly disclose that the pronunciation error criteria is received in the computer prior to receiving the utterances. However, the Examiner takes official notice that educational systems are well known for providing authoring steps prior to administering of a test. Allowing a teacher to input authoring data (correct, incorrect answers)/error criteria prior to administration of a test has an obvious well-known result that allows an educational system to provide on-the-fly feedback to the student since a comparison of the received answer and correct answer can be performed immediately after receiving a student answer, thereby providing instant feedback.

Masterson additionally does not specifically disclose the feature of providing an analysis prompt on the display for actuation by the user after the plurality of words have been recorded;

wherein the computer system analyzes the user utterances. However, Blass teaches a system for recording and analyzing sound, wherein a student must select a COMPARE button in order for the system to analyze the student's voice. See Blass, col. 7, lines 44-47; fig. 5. Therefore, in view of Blass, it would have been obvious to an artisan to modify the language training system described in Masterson, by providing an analysis prompt, such that the student can submit a voice recording for analysis once the student is ready after practicing and self evaluating the recording.

Regarding claim 14, Masterson discloses software to determine whether an error exists in a user pronunciation. "The determination may additionally include the application of a dialect filter that is adapted to discriminate between that which is deemed to be a true error and a predetermined normal dialect word pronunciation." See Col. 5, lines 55-67. Thus, Masterson discloses two different analysis settings where one is less restrictive than the other.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMERON SAADAT whose telephone number is (571)272-4443. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cameron Saadat/  
Primary Examiner, Art Unit 3715